

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

December 22, 2023

CERTIFIED COPY

Before:

Thomas L. Kirsch II, *Circuit Judge*
John Z. Lee, *Circuit Judge*
Doris L. Pryor, *Circuit Judge*

A True Copy

Teste:



Deputy Clerk
of the United States
Court of Appeals for the
Seventh Circuit

No. 23-2912

JOEY D. KIMBROUGH,
Plaintiff - Appellant,

v.

Appeal from the United
States District Court for
the Southern District of Indiana,
Indianapolis Division.

AMERICAN EXPRESS COMPANY,
also known as AMERICAN EXPRESS
NATIONAL BANK,
Defendant - Appellee.

No. 1:22-cv-01993-TWP-MJD

Mark J. Dinsmore,
Magistrate Judge.

ORDER

On consideration of the papers filed in this appeal and review of the short record,

IT IS ORDERED that this appeal is **DISMISSED** for lack of jurisdiction.

“A pro-arbitration decision, coupled with a stay (rather than a dismissal) of the suit, is not appealable.... Indeed, 9 U.S.C. § 16(b) positively *forbids* appeal.” *Moglia v. Pacific Employers Ins. Co. of North America*, 547 F.3d 835, 837 (7th Cir. 2008) (emphasis in original). The only exception to § 16(b)’s prohibition is an appeal by permission under 28 USC § 1292(b). *Id.* at 838; see also *INTL FCStone Financial Inc. v. Jacobson*, 950 F.3d 491, 500-01 (7th Cir. 2020).

In this case, Joey D. Kimbrough appeals an order by Magistrate Judge Mark S. Dinsmore (Dkt. 49) that was entered on the docket on September 11, 2023, as modified by the order of Judge Tanya Walton Pratt (Dkt. 50) on September 12, 2023. In these orders, the district court granted a motion to compel arbitration and stayed all proceedings pending the completion of arbitration. As such, appellate review is prohibited.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

NOTICE OF ISSUANCE OF MANDATE

January 17, 2024

To: Roger A. G. Sharpe
UNITED STATES DISTRICT COURT
Southern District of Indiana
United States Courthouse
Indianapolis, IN 46204-0000

No. 23-2912	JOEY D. KIMBROUGH, Plaintiff - Appellant v. AMERICAN EXPRESS COMPANY, also known as AMERICAN EXPRESS NATIONAL BANK, Defendant - Appellee
Originating Case Information:	
District Court No: 1:22-cv-01993-TWP-MJD Southern District of Indiana, Indianapolis Division Magistrate Judge Mark J. Dinsmore	

Herewith is the mandate of this court in this appeal, along with the Bill of Costs, if any. A certified copy of the opinion/order of the court and judgment, if any, and any direction as to costs shall constitute the mandate.

RECORD ON APPEAL STATUS:

No record to be returned